

Article 3K.

Tax Incentives for Railroad Intermodal Facilities.

(Repealed for taxable years beginning on or after January 1, 2038. See G.S. 105-129.99.)

§ 105-129.95. (Repealed for taxable years beginning on or after January 1, 2038 – see note)

Definitions.

The following definitions apply in this Article:

- (1) Costs of construction. – The costs of acquiring and improving land, constructing buildings and other structures, equipping the facility, and constructing and equipping rail tracks to the railroad intermodal facility that are necessary to access and support facility operations. In the case of property owned or leased by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code.
- (2) Eligible railroad intermodal facility. – A railroad intermodal facility whose costs of construction exceed thirty million dollars (\$30,000,000).
- (3) Intermodal facility. – A facility where freight is transferred from one mode of transportation to another.
- (4) Railroad intermodal facility. – An intermodal facility whose primary purpose is to transfer freight between a railroad and another mode of transportation. (2007-323, s. 31.23(a); 2007-345, s. 14.7(a).)

§ 105-129.96. (Repealed for taxable years beginning on or after January 1, 2038 – see note) Credit for constructing a railroad intermodal facility.

(a) **(Effective for taxable years beginning before January 1, 2017)** Credit. – A taxpayer that constructs or leases an eligible railroad intermodal facility in this State and places it in service during the taxable year is allowed a tax credit equal to fifty percent (50%) of all amounts payable by the taxpayer towards the costs of construction or under the lease.

(a) **(Effective for taxable years beginning on or after January 1, 2017)** Credit. – A taxpayer that constructs or leases an eligible railroad intermodal facility in this State is allowed a tax credit equal to fifty percent (50%) of all amounts payable by the taxpayer towards the costs of construction or under the lease if the facility is placed in service in this State during the taxable year. No credit is allowed under this section to the extent the cost of the eligible railroad intermodal facility was provided by public funds.

(b) Taxes Credited. – The credit provided in this section is allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. The credit may not exceed fifty percent (50%) of the tax against which it is applied. Any unused portion of a credit may be carried forward for the succeeding 10 years. Any carryforwards of a credit must be claimed against the same tax.

(c) **(Effective for taxable years beginning on or after January 1, 2017)** No Double Credit. – A taxpayer may not take the credit allowed in this section for an eligible railroad intermodal facility the taxpayer leases from another unless the taxpayer obtains

the lessor's written certification that the lessor will not claim a credit under this Chapter with respect to the facility. (2007-323, s. 31.23(a); 2017-39, s. 3(a).)

§ 105-129.97. (Repealed for taxable years beginning on or after January 1, 2038 – see note) Substantiation.

To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary. Each taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection. (2007-323, s. 31.23(a).)

§ 105-129.98. (Repealed for taxable years beginning on or after January 1, 2038 – see note) Report.

The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

- (1) The number of taxpayers that claimed a credit allowed in this Article.
- (2) The amount of each credit claimed and the taxes against which it was applied.
- (3) The total cost to the General Fund of the credits claimed. (2007-323, s. 31.23(a); 2010-166, s. 1.10.)

§ 105-129.99. Sunset.

This Article is repealed effective for taxable years beginning on or after January 1, 2038. (2007-323, s. 31.23(a).)

§ 105-129.100: Reserved for future codification purposes.

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§ 105-129.102: Reserved for future codification purposes.

§ 105-129.103: Reserved for future codification purposes.

§ 105-129.104: Reserved for future codification purposes.